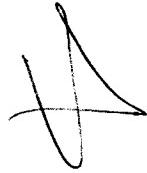


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION



SEAN HARRIS,)
)
)
Plaintiff,) Case No. 16 C 11381
)
)
v.)
)
NATIONSTAR MORTGAGE)
350 Highland Dr.)
Lewisville, TX 75067)
)
)
Defendant.)

MEMORANDUM ORDER

Sean Harris ("Harris") has brought this action against Nationstar Mortgage ("Nationstar") via an Amended Complaint ("AC") that charges Nationstar with having violated the federal Fair Debt Collection Practices Act ("Act"). According to AC ¶ 5, Nationstar operates as a collection agency and is a "debt collector" as defined in the Act.

Although this Court is required to credit a plaintiff's allegations in evaluating the sufficiency of a complaint, Harris' allegations in AC ¶ 5 pose a troubling problem. Nationstar's corporate name is of the type normally used by the actual owner of a mortgage indebtedness, rather than an entity that simply acts as a collection agency serving the actual owner. In that respect AC ¶¶ 9 and 12 reflect total uncertainty on that score.

9. Specifically, Plaintiff had her mortgage transferred to Defendant at a time when Defendant was in default for her mortgage.

* * *

12. At some point, the original creditor transferred this loan to Defendant, while Plaintiff was in default with original creditor.

Then AC ¶ 14 states that Nationstar's first contact with Harris was to advise him that he was in arrearage on the mortgage and the mortgage was "currently 'in foreclosure.'"

If Nationstar's effort described in the AC has been to collect an obligation owed to it, the Complaint's characterization of its being a "debt collector" for statutory purposes is obviously inaccurate. At a minimum the allegations drafted by Harris' counsel create an ambiguity -- at worst they may plead him out of court. Accordingly Harris' counsel is ordered to provide more enlightenment on that subject on or before January 6, 2017 so that this Court can determine whether this action can go forward under the Act.



Milton I. Shadur
Senior United States District Judge

Date: December 19, 2016